

LOUISIANA PUBLIC SERVICE COMMISSION
MINUTES FROM APRIL 8, 2009
OPEN SESSION

MINUTES OF APRIL 8, 2009 OPEN SESSION OF THE LOUISIANA PUBLIC SERVICE COMMISSION HELD IN BATON ROUGE, LOUISIANA. PRESENT WERE CHAIRMAN LAMBERT BOISSIERE, VICE CHAIR JIMMY FIELD, COMMISSIONERS FOSTER CAMPBELL, PAT MANUEL, AND ERIC SKRMETTA. ALSO PRESENT WAS LAWRENCE C. ST BLANC.

Open Session of April 8, 2009, convening at 9:39 A.M. and adjourning at 1:33 P.M., Natchez Room, 602 N. 5th Street, 1st Floor, Baton Rouge, Louisiana, with the above-named members of the Commission and Secretary Lawrence C. St. Blanc.

Ex. 1 Announcements

Commissioner Field announced that on May 19, 2009 there will be two technical conferences in the Natchez Room regarding transmission upgrades. The morning technical conference will be on the Webre-Wells Transmission Upgrade and in the afternoon the technical conference will cover the Base Plan Construction.

Executive Counsel Eve Gonzalez announced that this will be Executive Secretary Lawrence C. St. Blanc's final B&E as he is retiring effective April 17, 2009.

Ex. 2 **T-30898** - Louisiana Public Service Commission vs D. White & Sons Moving (New Orleans, Louisiana). In re: Alleged violation of Louisiana Revised Statutes Title 45, 163.1 through 194, as amended, by operating Intrastate without L.P.S.C. authority, and a violation of La. R.S. 45:164 E (1), by engaging in activities related to moving household goods prior to complying with the requirements of La. R.S. 45:164 E (1).

In re: Stipulated Agreement.

On motion of Commissioner Field, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the agreement between Staff and the Carrier, wherein the Carrier agreed to plead guilty, agreed to a fine of \$500.00, with \$250.00 suspended, and agreed to pay a citation fee of \$25.00, said fine and citation fee to be paid within 15 days of the issuance of the Order herein and further agreed that the amount suspended was on the condition of no additional violations within 12 months of the issuance of the Order.

Ex. 3 **U-25962 Sub A** – Greater Ouachita Water Company, ex parte. In re: Application of Greater Ouachita Water Company for adjustment in water and sewer rates, and for approval or non-opposition to the issuance of bonds to finance water and sewer facility improvements and refinance existing debt.

In re: Stipulated Settlement Agreement

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and 1) approve the Joint Stipulation filed into the record on March 17, 2009, and admitted at the hearing of this matter on March 30, 2009 and 2) require the Company to refund to its residential sewer customers \$.38 for each month that it collected the interim increase from those customers.

Ex. 4 **U-30187** – Louisiana Public Service Commission, ex parte. In re: Determination of Plaisance Development Corporation's exempt status from the years 2004 to 2007 in accordance with Commission General Order dated July 9, 2004.

In re: Motion for Reconsideration.

Last month's Exhibit No. 2

On motion of Commissioner Manuel, seconded by Commissioner Field, and unanimously adopted, the Commission voted to deny the motion for reconsideration.

- Ex. 5 **U-30552** – Louisiana Public Service Commission Vs. Plaisance Development Corporation. In re: Rule to Show Cause why Plaisance Development Corporation should not be found in violation of Louisiana Public Service Commission Order No. U-20008, dated December 22, 1992, for improper application of rates; in violation of Louisiana Public Service Commission General Orders dated November 16, 1972, February 20, 1973, and July 12, 1976, for improper assessment of delinquent penalties; and in violation of Louisiana Public Service Commission General Order dated September 17, 1991, for failure to pay interest on deposits.

In re: Motion for Reconsideration.

On motion of Commissioner Manuel, seconded by Commissioner Skrmetta, with Commissioner Boissiere concurring and Commissioners Field and Campbell temporarily absent, the Commission voted to deny the motion for reconsideration.

- Ex. 6 **U-30893** - Dixie Electric Membership Corporation, ex parte. In re: Request for approval of methodology to establish a Formula Rate Plan and approval of Rider Schedule FRP.

In re: Discussion and Possible Vote Regarding Hiring Outside Consultant to Assist Staff.

On motion of Commissioner Skrmetta, seconded by Commissioner Manuel, with Commissioners Boissiere and Campbell concurring and Commissioner Field temporarily absent, the Commission voted to retain the consulting firm of J. Kennedy and Associates for a proposed budget not to exceed \$46,900 for consulting services, with expenses not to exceed 8% or \$3,752.

- Ex. 7 **U-28513** – Energy America, ex parte. In Re: Complaint against Entergy Louisiana, Inc. regarding the application of its Large Economic Expansion Service Rider Schedule 3 to its Large Industrial Power Service Rate Schedule LIPS-16

In re: Request for Rehearing.

Last month's Ex. 6

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept and adopt the quantification of underbilling determined by Henderson Ridge Consulting and that LPSC Order No. U-28513-C be amended accordingly to delete footnote 74 and to add the following sentence at the end of conclusion number 5 on page 25 of that Order: "The total underbilling associated with this misapplication of the tariff is \$50,312.02." It was further ordered that the Henderson Ridge Consulting report dated April 2, 2009 will be accepted into, and make a part of, the permanent record of this proceeding.

- Ex. 8 **U-30192** - Entergy Louisiana, LLC, ex parte. In re: Application of Entergy Louisiana, LLC for Approval to Repower Little Gypsy Unit 3 Electric Generating Facility and for Authority to Commence Construction and for Certain Cost Protection and Cost Recovery.

In re: Report from Entergy Louisiana, LLC.

Last month's Exhibit No. 8

Karen Freese on behalf of Entergy Louisiana, LLC gave a report on the status of the Little Gypsy project.

Jesse George with the Alliance for Affordable Energy and Jordan Macha with the Sierra Club stated their desire for Entergy to cancel the Little Gypsy project and withdraw their request for certification.

- Ex. 9 **U-29702, U-27866 Subdocket B Consolidated** - Southwestern Electric Power Company (Shreveport, LA), ex parte. In re: Application of Southwestern Electric Power Company for certification of contracts for the purchase of capacity and to purchase, operate, own and install

peaking, intermediate and baseload generating facilities in accordance with the Commission's General Order dated September 20, 1983.

CONSOLIDATED WITH

Southwestern Electric Power Company, (Shreveport, LA), ex parte. In re: Application of Southwestern Electric Power Company for the certification of a contract for the purchase of capacity in accordance with the Commission's General Order dated September 20, 1983.

In re: Discussion and possible vote to approve Exeter Associates, Inc.'s proposed budget.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept Exeter Associates, Inc.'s proposed budget of \$78,500 for professional services plus 10% for direct project expenses to assist Staff with the post-certification tasks involved with this case.

Ex. 10 **U-30690** - Baton Rouge Water Company (Baton Rouge, LA), ex parte. In re: Application for an increase in water service rates within its service territory in East Baton Rouge Parish.

In re: Stipulated Agreement.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approved the Joint Stipulation as modified to reflect the adjustment made by Mr. William Barta of Henderson Ridge Consulting.

Ex. 11 **R-30712** – LPSC, ex parte. In re: Implementation of LA. R.S. 48:394 requiring certain procedures for private crossing elimination by railroads operating in Louisiana.

In re: Discussion and Possible Vote on Proposed Rule.

On motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to adopt the statute as passed by the Legislature.

On motion of Commissioner Campbell, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to reconsider the previous vote to afford anyone in the audience the opportunity to speak on this issue.

After hearing the oral argument of the Louisiana Railroads Association, on motion of Commissioner Campbell, seconded by Commissioner Field, and unanimously adopted, the Commission voted to enact Act 530 of the Louisiana Legislature.

Ex. 12 **R-29380 Sub A** – Louisiana Public Service Commission, ex parte. In re: Implementation, ratemaking treatment, and incentive issues of environmental legislation and environmental costs.

In re: Discussion and Possible Vote on Proposed Rule.

Last month's Ex. 10

Staff advised that "variable emissions mitigations costs" should be removed from the "Costs Not Allowed to be Recovered in the EAC" on p. 14 of the revised final proposed rule issued April 3, 2009.

Commissioner Skrmetta made a motion to accept Staff Recommendation with the caveat that the language on customers' bills would read "Federal Sulfur Dioxide/Nitrous Oxide Tax." Commissioner Manuel seconded the motion. However, Commissioners Boissiere, Field and Campbell dissented. By a vote of three to two, this motion failed.

On motion of Commissioner Campbell, seconded by Commissioner Field, with Commissioner Boissiere concurring, Commissioner Manuel absent, and Commissioner Skrmetta dissenting, the Commission voted to accept the Staff Recommendation and approve the Final Proposed Rule as filed on April 3, 2009 with Staff's one modification.

Ex. 13 **U-30955** - Louisiana Public Service Commission, ex parte. In re: Fuel Adjustment Clause Audit

for CLECO Power, L.L.C. for years 2003 – 2008

In re: Possible hiring of outside consultant to assist Staff.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and retain the consulting firm of Exeter and Associates, Inc. for a proposed budget of \$82,500 with expenses of \$9,500 to assist Staff in this proceeding.

- Ex. 14 Lake Charles Cogeneration, LLC's Offer to Sell Synthetic Natural Gas to LPSC-Jurisdictional Utilities: Report from Atmos, CenterPoint, Cleco, and Entergy Regarding Their Respective Evaluations of the Potential Ratepayer Effects.

In re: Report from utilities regarding on-going negotiations with LCC.

PASSED

- Ex. 15 Washington- St. Tammany Electric Cooperative, Inc., ex parte. In re: Request for Approval of Regulatory Asset to Recover Cost Associated with Hurricane Gustav and December 11, 2008 Winter Storm.

In re: Discussion and Possible Vote to Approve Regulatory Asset.

On motion of Commissioner Skrmetta, seconded by Commissioner Field, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve WST's request to defer all of the costs incurred in connection with storm repair and restoration borrowings for Hurricane Gustav and the 2008 Winter Storm and to designate these deferred costs as a regulatory asset, subject to the conditions as read into the record.

- Ex. 16 **S-30336 c/w S-30395** – Entergy Gulf States, Inc., ex parte and Entergy Louisiana, LLC, ex parte. In re: Application for Approval of Advanced Metering Pilot Program.

In re: Discussion and Possible Vote Regarding EGSL's Request for Extension of Pilot Program

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and expand the duration of the Fort Polk Pilot and the duration and scope of the South Baton Rouge Pilot, subject to the provisions read into the record.

- Ex. 17 Entergy Gulf States, LLC and Entergy Louisiana, LLC, ex parte. Gustav/Ike Storm Cost Recovery Request.

In re: Possible hiring of outside counsel and consultants.

On motion of Commissioner Field, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to accept the Staff Recommendation and approve the hiring of the same consulting team that assisted Staff in U-29203 for the following proposed budgets: 1) Stone Pigman - \$310,000 fees/\$25,000 expenses for the ratemaking phase; \$185,000 fees/\$16,000 expenses for the securitization phase; 2) Exeter - \$125,000 fees/\$12,500 expenses; 3) Henderson Ridge - \$71,620 fees/\$5,730 expenses; 4) Crawford Lewis - \$75,000 fees/20% expenses if Act 64 Securitization is utilized; \$200,000 fees/20% expenses if Act 55 Securitization is utilized; 5) Pathfinder - \$400,000 fees/\$25,000 expenses if Act 64 Securitization is utilized; an additional \$120,000 fees/\$20,000 expenses if Act 55 Securitization is utilized.

- Ex. 18 FERC EL01-88-000 Louisiana Public Service Commission v. Entergy Services Inc. (Entergy System Agreement Case)

In Re: Possible Executive Session to discuss continuing litigation strategies pursuant to La. R.S. 42: 6.1.

On motion of Commissioner Skrmetta, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to come out of Executive Session.

On motion of Commissioner Field, seconded by Commissioner Skrmetta, with Commissioners Boissiere and Campbell concurring and Commissioner Manuel objecting, the Commission voted to authorize Special Counsel to file a complaint to FERC on the four issues outlined by Special Counsel as follows: 1) The imputed capital structure for Entergy Louisiana, LLC, 2) The exclusion of ADIT from Waterford 3 sales/lease-back, 3) Union Pacific settlement, and 4) Texas rate-freeze disallowance. The motion also authorized Special Counsel to file a complaint to FERC on whether the system sales, whether long or short-term, are allowed under the Entergy System Agreement.

- Ex. 19
- 1) Reports
 - 2) Resolutions
 - 3) Discussions

Executive Counsel Eve Gonzalez read a resolution into the record regarding Executive Secretary Lawrence C. “Tubby” St. Blanc.

- Ex. 20
- Cleco Power LLC, ex parte. In re: Staff non-opposition letter to agreement for purchased power from Qualified Cogeneration facility between Red River Environmental Products, LLC, as seller, and Cleco Power LLC, as Purchaser, dated as of March 25, 2009; and Interconnection Agreement for Qualifying Cogeneration Facility between Red River Environmental Products, LLC, as Interconnection Customer, and Cleco Power LLC, as Interconnection Provider, dated as of March 25, 2009.

At the request of Commissioner Manuel.

On motion of Commissioner Manuel, seconded by Commissioner Skrmetta, and unanimously adopted, the Commission voted to accept the Staff Recommendation and authorize the PPAQF and IAQF agreements as proposed, subject to the following conditions: 1) The Agreement for Purchased Power becomes effective on the date of this Order. 2) Fuel-related issues associated with this Agreement for Purchased Power will be reviewed by the Commission within the conduct of its bi-annual fuel audits of Cleco’s fuel clause adjustment. 3) The Commission reserves the right to review any impact this Agreement for Purchased Power has on Cleco or Cleco ratepayers.

- Ex. 21
- S-30916** – Budget PrePay, Inc., ex parte. In re: Application for Designation as a Non-Rural Eligible Telecommunications Carrier.

At the request of Commissioner Campbell.

On motion of Commissioner Campbell, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to accept the Staff Recommendation and grant Budget PrePay, Inc. ETC designation.

- Ex. 22
- Staff presentation regarding federal Cap and Trade proposals and affects on LPSC electric utilities.

At the request of Commissioner Campbell.

Commissioner Campbell asked that the item be passed. Commissioner Boissiere announced that the Alliance for Affordable Energy had a presentation. Following the presentation and discussion, Commissioner Campbell requested further discussion regarding this matter at the Commission’s next meeting.

- Ex. 23
- Possible Executive Session pursuant to La. R.S. 42:6 and 42:6.1 to discuss Executive Secretary position.**

At the request of Commissioner Boissiere.

On motion of Commissioner Skrmetta, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to go into Executive Session.

On motion of Commissioner Skrmetta, seconded by Commissioner Boissiere, and unanimously adopted, the Commission voted to come out of Executive Session.

On motion of Commissioner Boissiere, seconded by Commissioner Manuel, and unanimously adopted, the Commission voted to appoint Eve Gonzalez as the interim Executive Secretary.

Commissioner Boissiere directed the Human Resource Director to begin the interviewing process for the Executive Secretary position on April 19, 2009.

Ex. 24

Water Utilities - Discussion and possible vote to open a rulemaking to consider different types of rate reviews and/or additional periodic filing requirements for water utilities.

At the request of Commissioner Skrmetta.

Commissioner Skrmetta directed Staff to open a rulemaking to determine whether some or all LPSC jurisdictional water utilities should be placed on Rate Stabilization Plans, or be made subject to some other periodic filing and/or review requirements, taking into consideration factors such as company size and sophistication and number and classes of customers and other factors that may be developed during the rulemaking.

MEETING ADJOURNED

The next Business and Executive Session will be held May 13, 2009 at 9:00 a.m. in Baton Rouge, Louisiana.